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Cook County State's Attorney,

Motion for Stay of Commencement of  
Customer Education and Order Requiring  
NeuStar to Demonstrate that the 847 NPA  
Is, in Fact, Exhausted

ICC Docket No. 01-0066

**MOTION TO WITHDRAW COMMISSION'S REQUEST  
TO THE HEARING EXAMINERS TO ADDRESS CERTAIN  
QUESTIONS IN THIS DOCKET AND TO CLOSE THE DOCKET**

The Staff of the Illinois Commerce Commission ("Staff"), by one of its attorneys, pursuant to 83 Ill. Admin. Code Part 200.190, respectfully moves the Commission to withdraw its request to the Hearing Examiners to address certain questions in this docket and to close the docket. This docket was initiated to address a motion by the Cook County State's Attorney's Office ("Cook County"). Through subsequent actions, the Commission has given Cook County the relief it sought in its motion. Therefore, the only issues for determination in this docket are the questions identified in the Hearing Examiners' ruling of February 15, 2001. Staff believes that these questions are best directed to Staff outside of this docket. Staff notes that Cook County has filed a motion requesting access to utilization data for the 847 NPA. Cook County's request, however, is contingent upon the questions for determination in this docket and, hence, if the Commission were to grant Staff's motion, Cook County's request would be moot. In further support of this motion, Staff states as follows:

## **BACKGROUND**

1. This docket was initiated to consider Cook County's Motion for Stay of Commencement of Customer Education and Order Requiring NeuStar to Demonstrate that the 847 NPA Is, in Fact, Exhausted. On January 22, 2001, Cook County filed its motion in docket 98-0847. On January 24, 2001, the Hearing Examiners determined that Cook County's motion was not proper in docket 98-0847, initiated docket 01-0066, and transferred the motion for consideration in the new docket. (Petition for Approval of NPA Relief Plans for the 312, 630 and 773 NPAs, Hearing Examiners' Ruling, ICC Docket 98-0847 (Jan. 24, 2001). They further determined that "to the extent that other issues arise relating to the 847 area code or the Commission's Order in 98-0497, this new docket will be considered appropriate for the filing of such pleadings pending further action." (Id. (directive 7)).

2. In its motion, Cook County asked the Commission to determine whether certain NXX codes designated, for various reasons, as unassignable by the industry could in fact be assigned in the 847 NPA. (Mot. at 4-5). Cook County also asked the Commission to stay the start of consumer education relating to the 224 overlay NPA until at least February 17, 2001. (Id. at 2). In response, a hearing was held on February 6, 2001 to discuss the motion. At the hearing's conclusion, the Hearing Examiners requested that the parties file comments addressing the "viability of releasing the nine NXX codes that are technically assignable but which the Industry does not recommend for assignment i.e., [219], 224, 312, 630, 668, 708, 809, 815, and 847." In re Motion for Stay of Commencement of Customer Education and Order Requiring NeuStar to Demonstrate that the 847 NPA Is, in Fact, Exhausted, Hearing Examiners' Ruling, ICC Docket 01-0066 (Feb. 7, 2001)).

3. On February 15, 2001, in a letter to Kimberly D. Wheeler, counsel for NeuStar, as the North American Numbering Plan Administrator ("NANPA"), the Commission rejected Neustar's January 17, 2001, letter indicating NXX code exhaust in the 847 NPA. (Letter from Illinois Commerce Commission to Kimberly D. Wheeler of 2/15/01) ("Wheeler Letter") (attached hereto as Exhibit 1). The Commission directed NeuStar "to reevaluate the status of 847 exhaust, and until such time such a [ ] [ ] reevaluation is completed, to not issue any 224 NXX codes or to begin customer education." (Wheeler Letter, at 2). In addition, the Commission directed NeuStar to:

1. Reclaim NXX codes, if any, from carriers which have not been activated;
2. Withhold additional numbering resources from carriers that fail to provide accurate utilization and forecast data with NeuStar as required by the FCC; and
3. Call upon carriers to review the NXX codes each is holding to determine whether any full NXX codes can be returned.

Id.

4. On February 16, 2001, the Commission issued an interim order directing that NXX codes 219, 224, 312, 630, 668, 708, 809, 815, and 847 be reclassified as assignable and utilized immediately. (In re Motion for Stay of Commencement of Customer Education and Order Requiring NeuStar to Demonstrate that the 847 NPA Is, in Fact, Exhausted, Interim Order, ICC Docket 01-0066 (Feb. 16, 2001), at 2). The Commission further found that the docket should remain open per the Hearing Examiners' January 24, 2001, ruling. (Id.)

5. The Commission's actions of February 15 and 16 have given Cook County the relief it sought in its motion. Cook County sought a Commission determination that some 29 NXX codes in the 847 NPA considered unassignable by the industry were in fact assignable. The Commission determined that nine NXX codes designated unassignable should be assigned and directed NeuStar to implement that determination. In addition, Cook County asked that consumer education

regarding the 224 overlay NPA not begin on February 17, 2001. The Commission directed NeuStar to postpone consumer education until it has reevaluated the status of exhaust in the 847 NPA. Consequently, the only issues for determination in this docket are the ones identified in the Hearing Examiners' ruling of February 15, 2001.

6. On February 15, 2001, the Hearing Examiners issued a ruling indicating that the Commission directed the Hearing Examiners to make the following determinations in this docket:

1. whether there are any NXX codes in the possession of certified carriers that have few, or no numbers assigned to customers;
2. whether there are between 35 and 51 full NXX codes in the 847 NPA without a single working phone number;
3. whether there are 39 NXX codes for which carriers did not file utilization data, and if so, are the codes being utilized and at what rate.

(In re Motion for Stay of Commencement of Customer Education and Order Requiring NeuStar to Demonstrate that the 847 NPA Is, in Fact, Exhausted, Hearing Examiners' Ruling, ICC Docket 01-0066 (Feb. 15, 2001)).

The Hearing Examiners determined that number utilization data filed with NeuStar on February 1, 2001, was necessary to make the determinations and, accordingly, required NeuStar to file that data with the Chief Clerk of the Commission as a "proprietary" document. The Hearing Examiners also requested that NeuStar respond to items 1-3 above, to the extent it is able to, in a verified report. Id. On February 20, 2001, NeuStar indicated that it sent, under seal, the requested utilization data to the Hearing Examiners.

### **DISCUSSION**

7. Staff requests that the Commission withdraw its direction to the Hearing Examiners and close this docket. Staff believes that the questions asked by the Commission are best directed to Staff outside of the docket. As the Commission is aware, Staff is currently reviewing the issues surrounding NXX code exhaust in the 847 NPA. Staff has reviewed the utilization data and

continues to review utilization data on an ongoing basis. Staff routinely consults with NANPA and the Pooling Administrator on area code and number pooling matters. Staff is an informed, nonpartisan entity. The information sought by the Commission is readily ascertainable from the utilization data and Staff is prepared to timely report its findings to the Commission.

8. Further, the questions asked by the Commission implicate reclamation issues. Staff believes that the question whether the Commission should accept the FCC's delegation of reclamation authority and, if so, the process by which the Commission should carry out the reclamation of NXX codes are issues best determined outside of a formal docketed proceeding. What's more, information submitted by codeholders to NANPA is often corrected, updated, and supplemented, which further militates in favor of an informal process between Staff and NANPA. Therefore, Staff requests that the Commission withdraw its direction to the Hearing Examiners to address the aforementioned questions in this docket. Accordingly, once the Commission withdraws its request to the Hearing Examiners, it should close this docket.

9. Staff notes that Cook County has recently filed a motion asking the Hearing Examiners to issue subpoenas duces tecum to allow Cook County to obtain utilization data for the 847 NPA. (Motion for Issuance of Subpoenas Duces Tecum of the Cook County State's Attorney, Docket 01-0066 (filed February 28, 2001)). Cook County indicates that its request for access to the February 1, 2001, utilization data sent to the Hearing Examiners by NANPA is based on the Hearings Examiners' ruling of February 15, 2001, requesting that NANPA respond in a verified report to three questions. (Cook County Mot. ¶ 8). According to Cook County, "[a]ccess to this data is necessary to enable [Cook County] to respond to the evidence revealed by the data on behalf of the People of Cook County in the same manner that NeuStar is allowed to respond on behalf of the telecommunications industry in its role as NANPA. Id. Consequently, should the Commission

withdraw its questions or dismiss this docket, or both, Cook County's request for access to the data would be moot. Staff's motion to close this docket obviously presents a threshold question that should be decided before Cook County's motion.

**CONCLUSION**

For all of the foregoing reasons, Staff's motion should be granted.

March 6, 2001

Respectfully submitted,

By: 

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**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

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Cook County State's Attorney,	)	
	)	
Motion for Stay of Commencement of	)	ICC Docket No. 01-0066
Customer Education and Order	)	
Requiring NeuStar to Demonstrate that	)	
the 847 NPA Is, in Fact, Exhausted	)	

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**NOTICE OF FILING**

**To:    Attached Service List**

**YOU ARE HEREBY NOTIFIED** that I have, on the 6th day of March, 2001, forwarded to the Chief Clerk of the Illinois Commerce Commission, for filing in the above-captioned docket, the Staff of the Illinois Commerce Commission's Motion to Withdraw Commission's Request to the Hearing Examiners to Address Certain Questions in This Docket and to Close the Docket, copies of which are hereby served upon you.



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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that copies of the foregoing Notice, together with the documents referred to therein, were served upon the parties on the attached Service List, by first-class mail, proper postage prepaid from Chicago, Illinois, on this 6th day of March, 2001.



Thomas R. Stanton

**Service List**

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